wherein the broadcast system is further coupled to broadcast the selected portion of the plurality of data files.

29. The system of claim 28 wherein each one of the one or more client systems are coupled to selectively store a portion of the selected portion of the plurality of data files in response to a content rating table associated with each respective one of the plurality of client systems.

30. The system of claim 28 wherein each one of the one or more client systems are coupled to selectively receive a portion of the selected portion of the plurality of data files in response to a content rating table associated with each respective one of the plurality of client systems.

31. The method of claim 7 further comprising storing based on the content rating table a portion of the second plurality of data files broadcast by the server system.

32. The method of claim 10 further comprising storing the portion of the second plurality of data files broadcast by the server system.

REMARKS

This Amendment is in response to the Office Action dated February 5, 2003. In the Office Action, the Examiner rejected claims 1-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,449,632 to David et al. (hereinafter *David*) in view of U.S. Patent No. 5,686,954 to Yoshinobu et al (hereinafter *Yoshinobu*).

Claims 1, 2, 4, 7, 8, 10, 11, 14, 15, 18, 19, 21, 22, 24, 25, 26, 27, and 28 are amended as shown above. Specifically, independent claims 1, 7, 10, 14, 18, 21, 24, 26, and 28 are amended to more clearly recite features of the claimed invention. Claims 1-32 remain pending in the application. For the reasons set forth below, the Applicants respectfully request reconsideration and allowance of all pending claims.

CLAIM REJECTIONS - 35 U.S.C. § 103

To establish a *prima facie* case of obviousness, there must first be some suggestion or motivation to modify a reference or to combine references, and second be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 706.02(j) from *In Re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Where claimed subject matter has been rejected as obvious in view of a combination of prior art references, a proper analysis under § 103 requires, *inter alia*, consideration of two factors: (1) whether the prior art would have suggested to those of ordinary skill in the art that they should make the claimed device; and (2) whether the prior art would also have revealed that in so making, those of ordinary skill would have a reasonable expectation of success. Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the Applicants' disclosure. *Amgen v. Chugai Pharmaceutical*, 927 F.2d 1200, 18 USPQ2d 1016 (Fed. Cir. 1991), *Fritsch v. Lin*, 21 USPQ2d 1731 (Bd. Pat. App. & Int'f 1991). An invention is non-obvious if the references fail not only to expressly disclose the claimed invention as a whole, but also to suggest to one of ordinary skill in the art modifications needed to meet all the claim limitations. *Litton Industrial Products, Inc. v. Solid State Systems Corp.*, 755 F.2d 158, 164, 225 USPQ 34, 38 (Fed. Cir. 1985).

The examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. M.P.E.P. § 70602(j) from *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Obviousness cannot be established by combining references without also providing evidence of the motivating force which would impel one skilled in the art to <u>do what the patent applicant has done</u>. M.P.E.P. § 2144 from *Ex parte Levengood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993) (emphasis added by M.P.E.P.).

David discloses a system for collecting user feedback in a data broadcasting system in which a user profile agent is employed at each of a plurality of user stations. Each user profile agent generates a user profiles based on observation of the behavior of a user associated with the station to which the agent corresponds. In particular, each user profile agent is operative "to create a user profile describing the [broadcast]item-selection preferences of the user of the associate user unit" (i.e., station) (Col. 8, lines 3-6).

Yoshinobu discloses a method of broadcasting program schedules using a reduced amount of data. From the abstract,

> A plurality of classification items each including a plurality of detailed items for recognizing broadcasting programs per se and program elements included in each of the broadcast programs are provided wherein the contents of each of the broadcasting programs are represented by the classification items and the detailed items that are respectively represented by the identification data are used to form scheduled program information. The scheduled program information is broadcast together with the corresponding table data for the identification data and the data for character display of the classification items and the detailed items corresponding to the identification data.

<u>Argument in Support of Allowance of Amended Independent Claims 1, 7, 10, 14, 18, 21, 24, 26, and 28</u>

With regard to the general rejection of the independent claims (particularly system claim 28), the Examiner asserts that *David* teaches the invention substantially

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as claimed, except for broadcasting meta-data including descriptions of data files or a content rating table for rating files described by the meta-data. The Examiner further asserts that *Yoshinobu* teaches a system including a server that broadcasts meta-data and employs a content rating table. To complete the obviousness rejection, the Examiner states,

> It would have been obvious to one of ordinary skill in the Computer Networking art to combine the teachings of *David* regarding a method for broadcasting information based on customer ratings with the teachings of *Yoshinobu* regarding broadcasting meta-data containing description of data files and providing content rating tables because *David* suggests the use of other techniques known in the art for collecting user information (col. 7, lines 50-67 and col.8 lines 1-2).

The Examiner rejected independent claims 1, 7, and 10 using the same basis, asserting that these claims are method claims that feature limitations that correspond to the system claim of claim 28. Furthermore, the Examiner rejected apparatus claim 14 and Beauregard claim 26 based on the assertion that these claims recite feature limitations corresponding to the client in the system of claim 28. Finally, the Examiner rejected apparatus claim 18 and 21, and Beauregard claim 24 based on the assertion that these claims recite feature limitations corresponding to the server in the system of claim 28. Applicant respectfully notes that claim 18 actually pertains to a client apparatus rather than a server, but understands the gist of the Examiners point.

Independent claims 1, 7, 10, 14, 18, 21, 24, 26, and 28 have been amended herein to more clearly recite features of the claimed invention. In particular, these claims have been amended to make clear that the meta-data that is originally broadcast by the server is employed to facilitate generation of the content ratings that are received by the server and subsequently employed to determine what content (i.e., which data files) are selected to broadcast.

For example, amended claim 28 now recites:

28. (Amended) A system, comprising:

a broadcast server; and

one or more client systems coupled to the broadcast server;

wherein the broadcast server is coupled to broadcast meta-data to the one or more client systems, the meta-data including descriptions of <u>content corresponding to respective data files from among</u> a plurality of data files <u>up for consideration for a future broadcast</u>;

wherein the one or more client systems are coupled to rate in response to a content rating table one or more of the plurality of data files described by the meta-data, the content rating table generated <u>using the meta-data and containing ratings</u> [responsive to] <u>derived from observation of</u> data files previously accessed <u>via that client</u>;

wherein the one or more client systems are coupled to transmit to the broadcast server the ratings of the plurality of data files;

wherein the broadcast system is coupled to select a portion of the plurality of the data files in response to the ratings received from the one or more client systems; and

wherein the broadcast system is further coupled to broadcast the selected portion of the plurality of data files.

In support of the obviousness rejection of original claim 28, the Examiner states,

> *Yoshinobu* teaches a system with a server that broadcasts meta-data including descriptions of a plurality of data files (col. 22, lines 13-52) and one or more clients coupled to rate in response to a content rating table one or more of the plurality of data files described by the meta-data, the content rating table generated responsive to data files previously accessed (col. 21, lines 5-61).

Col. 22, lines 13-52 concerns a technique for building a customized program schedule from the classified items, wherein the user is enabled to search for programming based on search classifications, as illustrated in Figures 16A-C. Col. 21, lines 5-61 concerns changing the display mode of the schedule program table of Figure 15. It is clear from these cited sections, as well as the rest of the '954 patent specification and drawings, that the classification items employed by *Yoshinobu's*

method are used to provide program schedule information via various display modes and enable customized programmed schedules to be built using classified searching techniques, and there is no teaching or fair suggestion that the classification items are or could be employed for generating content ratings. Furthermore, the classification items do not pertain to content up for consideration for broadcast from which selected content (i.e., data files) will be broadcast based on ratings feedback derived, in part, via the meta-data, but rather pertains to *a pre-determined broadcast schedule*.

In order to support an obviousness rejection, the combination of the references must teach or fairly disclose all of the elements and limitations of the claimed invention. Clearly, the combination of the *David* and *Yoshinobu* reference do not teach or fairly suggest all of the elements and limitations of the invention of claim 28. Accordingly, claim 28 is patentable over the cited art for at least this reason. Furthermore, there must be some motivation or suggestion to combine the *David* and *Yoshinobu* references. As indicated above, the Examiner asserts that *David* suggests the use of other techniques known in the art for collecting user information (col. 7, lines 50-67 and col.8 lines 1-2). However, it is very clear that *Yoshinobu*'s method and receiving device does not **collect any** user information. Furthermore, there is nothing in either reference or the prior art at the time of the invention to motivate one of ordinary skill in the art to combine the *David* and *Yoshinobu* references. Accordingly, the motivation to combine references prong of the obviousness test fails as well.

Applicant respectfully asserts that each of amended independent claims 7, 10, 14, 18, 21, 24, and 26 are patentable over the cited references for at least the same reasons as claim 28 Claim 1 is a method claim substantially claims the operations performed at the server and the clients as recited in claim 28. Claims 7 and 10 are method claims that recite client-side operations substantially corresponding to similar operations performed by the clients in claim 28. Claim 10 further includes the element of "selectively receiving, based on the content rating table, a portion of the second

plurality of data files broadcast by the server system." There is no teaching or suggestion in either the *David* and *Yoshinobu* references concerning selectively receiving content based on a content rating table.

Independent claim 14 is an apparatus claim reciting an apparatus for performing the server-side operations of system claim 28. Independent claim 18 and 21 respectively recited apparatus' for performing the methods of claims 7 and 10. Claim 24 is a Beauregard claim corresponding to software for performing the server-side operations of the system of claim 28. Claim 26 is a Beauregard claim corresponding to software for performing the method of claim 31, which adds the further operation of "storing based on the content rating table a portion of the second plurality of data files broadcast by the server system" to the method of claim 7.

Conclusion

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, independent claims 1, 7, 10, 14, 18, 21, 24, 26 and 28 are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.
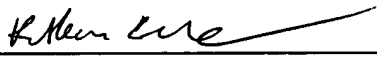
Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Date: _April 14, 2003_

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1. (Amended) A method, comprising:

broadcasting meta-data to one or more client systems, the meta-data including descriptions of <u>content corresponding to respective data files from among</u> a plurality of data files <u>up for consideration for a future broadcast</u>;

<u>processing the meta-data at each of the one or more client systems to generate a content-rating interface via which content ratings corresponding to the plurality of data files may be obtained</u>;

<u>obtaining content ratings for respective data files via the content-rating interface</u>;

receiving <u>content</u> ratings [of each one of] <u>for</u> the plurality of data files from the one or more client systems; and

broadcasting a <u>selected</u> portion of the plurality of data files to the one or more client systems in response to the <u>content</u> ratings received from the one or more client systems.

2. (Amended twice) The method of claim 1 [further comprising selecting the portion of the plurality of data files, which have higher ratings based on the received ratings] <u>wherein the selected portion of the plurality of data files that are broadcast are data files having higher content ratings than a remaining portion of data files that are not selected for broadcast</u>.

4. The method of claim 1 further comprising broadcasting a broadcast schedule of the <u>selected</u> portion of the plurality of data files prior to broadcasting the <u>selected</u> portion of the plurality of data files.

7. (Amended twice) A method, comprising:

receiving meta-data broadcast by a server system, the meta-data including descriptions of content corresponding to respective data files from among a first plurality of data files up for consideration for a future broadcast;

[rating in response to] obtaining ratings via a content rating table for at least one of the first plurality of data files described by the meta-data, the content rating table generated using the meta-data and containing ratings [responsive to] derived from observation of data files previously accessed;

transmitting the ratings of the at least one of the first plurality of data files to the server system; and

receiving a second plurality of data files broadcast by the server system.

8. (Amended) The method of claim 7 further comprising:

receiving a meta-data broadcast schedule broadcast by the server system[,]; and

activating the client system [activated] in response to the meta-data broadcast schedule to receive the meta-data.

10. (Amended twice) A method, comprising:

receiving meta-data broadcast by a server system, the meta-data including descriptions of a first plurality of data files;

rating in response to a content rating table at least one of the first plurality of data files described by the meta-data, the content rating table generated using the

meta-data and containing ratings [responsive to] derived from observation of data files previously accessed via the apparatus;

transmitting the ratings of the at least one of the first plurality of data files to the server system;

receiving a broadcast schedule of a second plurality of data files broadcast by the server system; and

selectively receiving, based on the content rating table, a portion of the second plurality of data files broadcast by the server system.

11. (Amended) The method of claim 10 further comprising:

receiving a meta-data broadcast schedule broadcast by the server system[,]; and

activating the client system [activated] in response to the meta-data broadcast schedule to receive the meta-data.

14. (Amended) An apparatus, comprising:

a processor having circuitry to execute instructions;

a communications interface coupled to the processor, the communications interface coupled to broadcast data to one or more client systems, the communications interface further coupled to receive data from the one or more client systems;

a storage device coupled to the processor, having sequences of instructions stored therein, which when executed by the processor cause the processor to

broadcast meta-data to one or more client systems, the meta-data including descriptions of content corresponding to respective data files from among a plurality of data files up for consideration for a future broadcast;

receive <u>content</u> ratings [of each one of] <u>for</u> the plurality of data files from the one or more client systems<u>, the content ratings for each data file being identified by corresponding meta-data</u>; and

broadcast a <u>selected</u> portion of the plurality of data files to the one or more client systems in response to the ratings received from the one or more client systems.

15. (Amended twice) The apparatus of claim 14 wherein the [processor is further caused to select the portion of the plurality of data files, which have higher ratings based on the received ratings] <u>selected portion of the plurality of data files that are broadcast are data files having higher content ratings than a remaining portion of data files that are not selected for broadcast</u>.

18. (Amended) An apparatus, comprising:

a processor having circuitry to execute instructions;

a communications interface coupled to the processor, the communications interface coupled receive data broadcast from a server system, the communications interface further coupled to transmit data to the server system;

a storage device coupled to the processor, having sequences of instructions stored therein, which when executed by the processor cause the processor to

receive meta-data broadcast by a server system, the meta-data including descriptions of a first plurality of data files;

rate, in response to a content rating table, at least one of the first plurality of data files described by the meta-data, the content rating table generated <u>using the meta-data</u>

and containing ratings [responsive to] derived from observation of data files previously accessed via the apparatus;

transmit the ratings of the at least one of the first plurality of data files to the server system;

receive a second plurality of data files broadcast by the server system; and

store, based on the content rating table, one or more of the second plurality of data files broadcast by the server system.

19. (Amended) The apparatus of claim 18 wherein the processor is further caused to: receive a meta-data broadcast schedule broadcast by the server system[,]; and

activate the client system [activated] in response to the meta-data broadcast schedule to receive the meta-data.

21. (Amended) An apparatus comprising:

a processor having circuitry to execute instructions;

a communications interface coupled to the processor, the communications interface coupled receive data broadcast from a server system, the communications interface further coupled to transmit data to the server system;

a storage device coupled to the processor, having sequences of instructions stored therein, which when executed by the processor cause the processor to

receive meta-data broadcast by a server system, the meta-data including descriptions of content corresponding to respective data files from among a first plurality of data files up for consideration for a future broadcast;

rate, in response to a content rating table, at least one of the first plurality of data

files described by the meta-data, the content rating table generated using the meta-data

and containing ratings [responsive to] derived from observation of data files previously

accessed via the apparatus;

transmit the ratings of the at least one of the first plurality of data files to the

server system;

receive a broadcast schedule of a second plurality of data files broadcast by the

server system;

selectively receive based on the content rating table a portion of the second

plurality of data files broadcast by the server system; and

store the portion of the second plurality of data files broadcast by the server

system.

22. (Amended) The apparatus of claim 21 wherein the processor is further

caused to receive a meta-data broadcast schedule broadcast by the server system[,];

and

activate the client system [activated] in response to the meta-data broadcast

schedule to receive the meta-data.

24. (Amended) A machine-readable medium having instructions stored thereon,

which when executed by a processor cause the processor to

broadcast meta-data to one or more client systems, the meta-data including

descriptions of content corresponding to respective data files from among a plurality of

data files up for consideration for a future broadcast;

receive <u>content</u> ratings [of each one of] <u>for</u> the plurality of data files from the one or more client systems<u>, the content ratings for each data file being identified by corresponding meta-data</u>; and

broadcast a <u>selected</u> portion of the plurality of data files to the one or more client systems in response to the ratings received from the one or more client systems.

25. (Amended twice) The machine-readable medium of claim 24 wherein the [processor is further caused to select the portion of the plurality of data files, which have higher ratings based on the received ratings] <u>selected portion of the plurality of data files that are broadcast are data files having higher content ratings than a remaining portion of data files that is not selected for broadcast</u>.

26. (Amended) A machine-readable medium having instructions stored thereon, which when executed by a processor cause the processor to

receive meta-data broadcast by a server system, the meta-data including descriptions of <u>content corresponding to respective data files from among</u> a first plurality of data files <u>up for consideration for a future broadcast</u>;

rate<u>,</u> in response to a content rating table<u>,</u> at least one of the first plurality of data files described by the meta-data, the content rating table generated <u>using the meta-data and containing ratings</u> [responsive to] <u>derived from observation of</u> data files previously accessed <u>via a client system containing the processor</u>;

transmit the ratings of the at least one of the first plurality of data files to the server system;

receive a second plurality of data files broadcast by the server system; and

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store, based on the content rating table, one or more of the second plurality of

data files broadcast by the server system.

27. (Amended) The machine-readable medium of claim 26 wherein the process

is further caused to : receive a meta-data broadcast schedule broadcast by the server

system[,]; and

activate a client system [activated] containing the processor in response to the

meta-data broadcast schedule to receive the meta-data.

28. (Amended) A system, comprising:

a broadcast server; and

one or more client systems coupled to the broadcast server;

wherein the broadcast server is coupled to broadcast meta-data to the one or

more client systems, the meta-data including descriptions of content corresponding to

respective data files from among a plurality of data files up for consideration for a future

broadcast;

wherein the one or more client systems are coupled to rate in response to a

content rating table one or more of the plurality of data files described by the meta-data,

the content rating table generated using the meta-data and containing ratings

[responsive to] derived from observation of data files previously accessed via that client;

wherein the one or more client systems are coupled to transmit to the broadcast

server the ratings of the plurality of data files;

wherein the broadcast system is coupled to select a portion of the plurality of the

data files in response to the ratings received from the one or more client systems; and

wherein the broadcast system is further coupled to broadcast the selected portion of the plurality of data files.